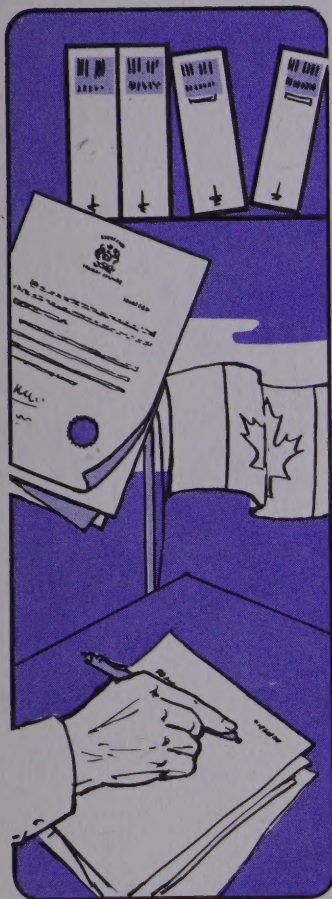


JUSTICE IN



THE NORTH

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JUSTICE IN THE NORTH

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PURPOSE OF THIS BOOKLET

The intention is to explain in simple form the way in which the law is applied in the Northwest Territories and to further point out what some of the rights and responsibilities of each person are in relation to the law, the police and the courts.

Because lawyers do not live in the smaller communities their services are not immediately available. When the Magistrate's Court or the Territorial Court is on circuit there is usually a lawyer with the court party who can be consulted.

If any person thinks he or she has a legal problem if that person would write a letter to the "Clerk of Court, Court House, Yellowknife" the Clerk will see that one of the lawyers gets the letter. The Court will also attempt to make that lawyer available on the next circuit to the person's community if the problem merits such attention. If a person cannot afford

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to pay a lawyer the person's request will be turned over to the legal aid committee for approval. Once approval is granted the lawyer will be paid by the Government.



I GENERAL

1. CIVIL LAW

Legal rights as between one person and another are called "civil law" in this booklet. For example if you are run over and hurt by someone driving a skidoo carelessly or you have serious trouble with your wife or husband or an argument over who owns a boat you call this "civil law".

2. CRIMINAL LAW

In a general way if you do something that the Government of Canada or the Government of the Northwest Territories says you shall not do then you are breaking the criminal law. You must not hit a person or steal his money or abandon game you have killed. These are examples of the criminal law.

3. ENFORCEMENT OF THE LAW

Usually if the problem is "civil law" it is up to the person who has a complaint to go to a lawyer for help. It is up to him or her to seek the relief. This of course only applies if the people cannot settle their differences on a friendly basis.

If however the problem is "criminal" then the police will look after it and a person with a complaint should go to the nearest R.C.M.P.

4. COURTS

When a dispute arises, whether it is "civil" or "criminal" the final settlement or decision is made by a court. In each community there is a Justice of the Peace Court which looks after the minor or small cases. For the more serious cases the Court to settle it may be the Magistrate's Court or the Territorial Court. These Courts move from settlement to settlement on circuit as the work requires.



5. JURY

If a case or dispute is very serious the person involved can in most cases ask for or may be required to have a trial by jury. This means that the final verdict or decision will be made by six citizens chosen from the community under the supervision of the Judge of the Court.

6. COURT OFFICIALS

To carry out the work of the Magistrate's and Territorial Court there are different officials each with a special job to do. The Clerk of Court or the Sheriff has control of the handling of the trial, swears in the witnesses, and looks after any documents or exhibits. He also makes seizures of property and can arrest people like a policeman. The actual words spoken in a trial, called evidence, is all written down by a Court Reporter.

7. APPEALS

If a person is not satisfied with the decision of any of the Courts he or she may appeal the decision or the sentence or both. This means that the decision or judgement will be reviewed in a higher court. If you plan an appeal you should contact a lawyer or write the Clerk of Court or at least ask the R.C.M.P.



8. LAWYERS

Lawyers are men and women who are specially trained in interpreting laws and in handling witnesses and evidence in Court trials. They also know how to make up contracts and can advise you about such things as property, wills, estates and so on. Just as you would go to the resident nurse or a doctor if you are sick, you should try to see a lawyer if you have any legal problem.

9. POLICE

The police are there to protect the people and their homes and property from wrongdoers. In doing their job they sometimes have to arrest people and bring them to court to answer for the wrongdoing that they are accused of doing. It is not for the police to decide who is right or who has done wrong it is for the Court to make the decision.

II CIVIL LAW

1. PROPERTY RIGHTS

Property rights means such things as your right to own your boat or skidoo, the right to live in a certain house. If someone promised money or goods to you and doesn't pay or doesn't deliver that is a right. All of these rights can be settled in court if there is a dispute that cannot otherwise be settled.

2. WILLS AND ESTATES

Most people today own some property of value or have some money. It is a good thing to have a will - a written paper - saying who is to have that property or money if the person dies. When a person dies and has property or money to be divided up this is called his or her estate. The

law provides certain rules as to who is to be given this property on death, the widow, the children and so on. Estates are administered by relatives or by the Public Trustee depending on how the will is worded or on how the relations wish it to be handled. The Court supervises the administration in order to protect the property and the people who are entitled to the property.

3. MARRIAGE AND DIVORCE

There are many laws affecting husbands and wives and children. What is to happen if the husband doesn't support or feed his family? How can one remarry if the first marriage is not a happy one? If these problems are serious the service of a lawyer is recommended and he will tell you what your rights are and how the Court will treat them.

4. SLANDER AND LIBEL

One person may call another very bad names or tell lies about him - this may result in the innocent person being laughed at by his friends or being ridiculed by the community. If it is serious enough the injured person can ask the Court

for help - compensation may be ordered to be paid, or an order stopping the talk.

5. ADOPTIONS AND CUSTODY

In the Northwest Territories there are laws governing adoptions and native custom adoptions. Your local administrator or welfare officer can help you here if you have a problem. These matters can also be brought before the Court for final settlement where necessary.



6. DAMAGE AND INJURY CLAIMS

A person may be badly hurt in an accident caused by someone else.

The injured person may lose time from work or end up with loss of an eye or arm or leg. It may be that the injured person may have a right to ask the person who was careless and who caused the injury to pay the damage - the loss of pay and so on. Again the lawyer should be able to help and explain how to bring the matter before the Court if it cannot be settled.

7. REMEDIES

Usually for every injury or wrong done to a person by another there is a remedy - money compensation or return of property and so on. These rights may be lost by delay or outlawed as it is called. If you think you have been wronged then do not delay in asking a lawyer about it. It may be that you bought something and have a complaint about it while you still owe for the price. Depending on the facts you may be able to get help here.

III CRIMINAL LAW

1. SERIOUS OFFENCES

It has already been explained that serious offences usually come before the Territorial Court to be tried by the Judge or by the Judge and Jury. Murder, Rape and Indecent Assaults are a few of this types of cases.

2. LESS SERIOUS OFFENCES

These are usually tried in the Magistrate's Court. Examples are Theft, Common Assault and so on.

3. MINOR OFFENCES

These are usually crimes under Criminal Code, Territorial Legislation or Hamlet by-laws and are usually tried before the Justice of the Peace resident in the community. For example speeding or breaches of the Liquor Laws.

IV RIGHTS AND RESPONSIBILITIES



1. ROYAL CANADIAN MOUNTED POLICE

The police are in your community to see that both your person and your property is protected. This is another way of saying the police are there to see that the law of the land is obeyed. They should not be looked on with suspicion but as protectors and can be expected to give information about such things as game laws and so on.

Should you be hurt by anyone or your property stolen or some such

thing immediately advise the police and they will investigate the matter.

Similarly if a person breaks the law by assaulting another, or breaks a window, etc. he can count on the police calling on him.

If the offence is serious the offending person may be arrested, taken into custody. Usually if this takes place it means the policeman holds a warrant to arrest and he will so say.

When arrested the policeman is entitled to ask you to identify yourself and it is your duty to cooperate to this extent. You can ask him to produce his warrant to arrest before going with him, but should he not produce it but still insist on arresting you, do not resist but go along. The question of the legality of your arrest can be settled later.

Other than identifying yourself you are under no obligation to make any statement or confession to him, nor can you be compelled to answer questions. Depending of course upon the circumstances it may be to your advantage to make a statement or to answer questions. That is for you to decide - not him. These remarks apply whether the policeman gives you any warning or not that any state-

ments given by you or answers made by you may be used in Court against you.

After arrest you may be let out on your agreeing to make yourself available for trial. Should you not be released you may ask to be brought before a Justice for bail. You may also request to be given a chance to talk to a lawyer.

In this Territory the lawyers are usually at Yellowknife so if you are at any other community it is perhaps best to choose a lawyer from the names the policeman will give you and then you should phone or wire the lawyer you choose as soon as possible.

You must remember that the sooner you contact your lawyer the better is his chance of being able to help you.

2. LAWYER OR COUNSEL

In the Northwest Territories for all serious offences against the Criminal Code and Ordinances of the Northwest Territories you are entitled to have the assistance of a lawyer even if you have not got the money to pay for it. As the lawyer will be in Yellowknife he should be contacted as soon as possible so that he can arrange to

accompany the Court the next time it comes to your community.

Lawyers or Counsel as they are called are men trained in the law and they will see that any defence you may have open to you is presented properly to the Court.

It is the lawyer's duty to assist you in every way - by advice, and by examining the Crown's case against you. You must be frank and honest with your lawyer and, if you are, he will be able to help.

If you have no money or very little you can ask the Court to name a lawyer to help you and in such cases the Government will pay him. Whether you pay him or the Government pays him makes no difference - he will still do his best for you and you in turn should accept and act on his advice and give him complete cooperation.

The Minister of Justice has recently arranged for a legal aid system to make sure a lawyer will be available even to people with little money. If you are in this position write the Clerk of the Court and the question of providing a lawyer will be referred to a legal aid committee immediately.

3. SEARCH WARRANTS

Where a person is charged with a serious offence the police upon proper evidence being made available are permitted to obtain a search warrant. If a policeman comes to your house or office and wants to make a search he should produce the search warrant to entitle him to search. You can ask him to produce it. Also if he seizes or takes anything you may demand a receipt for whatever he takes.

4. IN COURT

When you are brought before the Court in the normal case the Clerk of the Court will read out the charge - that is the paper that states what you are alleged to have done.

You may be asked whether you plead guilty or not. Be sure you understand before you give any answer.

If it is one of those cases where you have an election or choice you may first be asked which Court you wish to be tried by. Again make sure you understand before you answer. Normally in a serious criminal



case you are entitled to ask that the case be postponed or your plea reserved until you can have a lawyer.

It should be pointed out here that in Canadian law, except in a few very special circumstances, a person accused of a crime is presumed innocent until proven beyond a reasonable doubt.

5. INTERPRETERS

If a person accused of a crime or having a civil claim cannot under-

stand English he or she may ask for an interpreter and the Court will provide for an interpreter.

6. APPEARANCES

Sometimes a person is asked to help the Court and country by doing service as a jurymen or by being asked to give evidence of what he knows about some event. This should not frighten you. It is an important duty to perform for your country and for your fellow man. Your expenses will be paid by the Government.

7. PENALTIES

If the law is broken the Court may be required to punish the person who broke the law. This punishment is called a penalty. The penalty may be a fine or money charge or a suspended sentence or probation where the person may be given another chance. Sometimes the penalty may be a period of so many days in jail. All of these penalties depend on how serious the breach of the law is and you can count on the Court (Justice of the Peace, Magistrate or Judge) taking all relevant circumstances into consideration in deciding what the penalty should be.

8. BAIL

If you cannot be tried by the Court right away or your case is postponed until you have talked to your lawyer you may ask the Court for bail. If your request is granted, and usually it is unless there are exceptional circumstances, you will be allowed to go free until the date of the trial.

FURTHER INFORMATION

If you want to ask further questions about your rights or have legal problems and do not know a lawyer write or contact any of the following:

Your local R.C.M.P. Officer
or Government Administrator

or

The Clerk of Court,
Yellowknife, N.W.T.

or

The President,
Northwest Territories
Bar Association,
Yellowknife, N.W.T.

or

Legal Aid Committee,
c/o Director of Legal
Affairs,
Government of the N.W.T.,
Yellowknife, N.W.T.

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